

ORIGINAL

COMMISSIONERS
DOUG LITTLE - Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN



0000173301

Direct Line: (602) 542-3682
Email: RBurns-web@azcc.gov

ARIZONA CORPORATION
COMMISSION

September 13, 2016

RE: Arizona Public Service Company, Docket No. E-01345A-16-0036/E-10345A-16-0123

Dear Chairman Little:

Yesterday, Arizona Public Service Company/Pinnacle West Capital Corporation served me with a Summons, Complaint, Application for and Memorandum in Support of a Preliminary Injunction and Application for Order to Show Cause, Proposed Order to Show Cause, and Certificate of Compulsory Arbitration. According to the documents I received, Arizona Public Service/Pinnacle West Capital Corporation has commenced litigation in Maricopa County Superior Court (CV-2016-014895, Summons attached) to enjoin me from enforcing the subpoenas I issued to them on August 25, 2016. I am required to file a response by October 3, 2016.

Yesterday, I was also informed by the Commission's attorneys that they would be unable to represent me in this matter due to a conflict of interest under Rule 42, ER 1.7 of the Arizona Rules of Professional Conduct.

According to the memorandum sent to us on August 18, 2016 by Executive Director Jodi Jerich (attached), the Commission needs to vote to permit her to hire outside legal counsel to represent me pursuant to A.R.S. §§ 40-105, -106.

I am requesting that you schedule a Staff Open Meeting as soon as possible so that I may hire outside counsel to assist me in my defense. I do regret the short notice but, as mentioned above, I just learned yesterday that our Legal Division would be unable to represent me in this litigation and need to hire an attorney as soon as possible. For your convenience, I have attached proposed language to include in the Staff Open Meeting notice.

Thank you for your assistance in this matter.

Sincerely,

Handwritten signature of Robert L. Burns.
Robert L. Burns
Commissioner

Arizona Corporation Commission
DOCKETED
SEP 13 2016

DOCKETED BY Handwritten signature.

RECEIVED
AZ CORP COMMISSION
DOCKET CONTROL
2016 SEP 13 PM 4:00

CC: Commissioner Bob Stump
Commissioner Tom Forese
Commissioner Andy Tobin
Hand-delivered to Chairman Little

ORIGINAL

Mary R. O'Grady, 011434
Joseph N. Roth, 025725
OSBORN MALEDON, P.A.
2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793
(602) 640-9000
mogrady@omlaw.com
jroth@omlaw.com

Matthew E. Price (*Pro Hac Vice* to be filed)
JENNER & BLOCK
1099 New York Avenue, NW
Suite 900
Washington, DC 20001-4412
(202) 639-6873
mprice@jenner.com

Attorneys for Plaintiffs

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

Arizona Public Service Company, an Arizona public
service corporation, and Pinnacle West Capital
Corporation, an Arizona corporation,

Plaintiffs,

vs.

Commissioner Robert Burns, a member of the
Arizona Corporation Commission, in his official
capacity,

Defendant.

No. CV 2016-014895

SUMMONS

If you would like legal advice from a lawyer,
contact the Lawyer Referral Service at
602-257-4434

or

www.maricopalawyers.org

Sponsored by the
Maricopa County Bar Association

THE STATE OF ARIZONA TO THE DEFENDANT:

**Commissioner Robert Burns
Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007-2996**

YOU ARE HEREBY SUMMONED and required to appear and defend, within
the time applicable, in this action in this court. If served within Arizona, you must
appear and defend within 20 days after the service of the Summons, Complaint,
Application for and Memorandum of Points and Authorities in Support of Preliminary

**OSBORN
MALEDON**

A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

1 Injunction and Application for Order to Show Cause, proposed Order to Show Cause,
2 and Certificate of Compulsory Arbitration upon you, exclusive of the day of service. If
3 served out of the State of Arizona, whether by direct service, by registered or certified
4 mail, or by publication, you shall appear and defend within 30 days after the service of
5 the Summons, Complaint, Application for and Memorandum of Points and Authorities
6 in Support of Preliminary Injunction and Application for Order to Show Cause,
7 proposed Order to Show Cause, and Certificate of Compulsory Arbitration upon you is
8 complete, exclusive of the day of service. Where process is served upon the Arizona
9 Director of Insurance as an insurer's attorney to receive service of legal process against
10 it in this state, the insurer shall not be required to appear, answer or plead until the
11 expiration of 40 days after date of such service upon the Director. Service by registered
12 or certified mail without the State of Arizona is complete 30 days after the date of
13 receipt by the party being served. Service by publication is complete 30 days after the
14 date of first publication. Direct service is complete when made. Service upon the
15 Arizona Motor Vehicle Superintendent is complete 30 days after filing the Affidavit of
16 Compliance and return receipt or Officer's Return. RCP 4, 4.1, 4.2 and 12(a).

17 YOU ARE HEREBY NOTIFIED that in case of your failure to appear and
18 defend within the time applicable, judgment by default may be rendered against you for
19 the relief demanded in the Complaint.

20 YOU ARE CAUTIONED that in order to appear and defend, you must file an
21 Answer or proper response in writing with the Clerk of this Court, accompanied by the
22 necessary filing fee, within the time required, and you are required to serve a copy of
23 any Answer or response upon the Plaintiff's attorney. Arizona Rules of Civil
24 Procedure, Rules 5, 10; A.R.S. § 12-311.

25 Copies of the pleadings filed herein may be obtained by contacting the Clerk of
26 Superior Court, Maricopa County, located at 201 West Jefferson, Phoenix, Arizona.

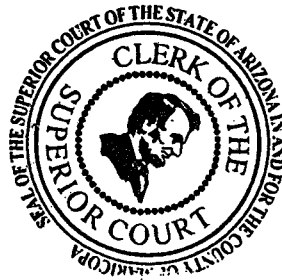
27 Requests for reasonable accommodation for persons with disabilities must be
28 made to the division assigned to the case by the party needing accommodation or his/her
counsel at least three (3) judicial days in advance of a scheduled court proceeding.
Requests for an interpreter for persons with limited English proficiency must be made to
the division assigned to the case by the party needing the interpreter and/or translator or
his/her counsel at least ten (10) judicial days in advance of a scheduled court
proceeding. Local Rules of Practice for the Superior Court, Maricopa County, Rule
2.5(c).

29 ...
30 ...
31 ...
32 ...
33 ...

1 The names and address of Plaintiffs' attorneys is:

2 Mary R. O'Grady
3 Joseph N. Roth
4 OSBORN MALEDON, P.A.
5 2929 N. Central Avenue, Suite 2100
6 Phoenix, Arizona 85012-2793
7 (602) 640-9000

8 SIGNED AND SEALED THIS DATE SEP 09 2016



CLERK

By J. Baker Deputy Clerk
MICHAEL K. JEANES, CLERK
J. Baker
Deputy Clerk

COMMISSIONERS
DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN



JODI JERICH
Executive Director

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Doug Little, Chairman
Bob Stump, Commissioner
Bob Burns, Commissioner
Tom Forese, Commissioner
Andy Tobin, Commissioner

FROM: Jodi Jerich

DATE: August 18, 2016

RE: Revised Understanding of Authority Pursuant to §40-105(C)(5)

Based on the discussion of the Commissioners at the August 10, 2016 Staff Open Meeting, it is my understanding that the Executive Director does not have permissive delegated authority to employ outside legal counsel pursuant to §40-105(C)(5) to provide legal services to the Commission or individual Commissioners without Commission action.

Proposed Staff Open Meeting Agenda Item

Commission discussion, consideration, and possible vote regarding Commissioner Burns' request to authorize the Executive Director to hire an attorney to represent Commissioner Burns in matters related to his recent subpoenas to Arizona Public Service Company and Pinnacle West.

CERTIFICATION OF SERVICE

On this 13 day of September, 2016, the foregoing document was filed with Docket Control as Correspondence from Commissioner Bob Burns and copies of the foregoing were mailed on behalf of the Commissioner to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link of the foregoing document to the following who have consented to email service.

Kurt Boehm
BOEHM, KURTZ & LOWRY
36 E. Seventh St. Suite 1510
Cincinnati Ohio 45202

Nicholas J. Enoch
LUBIN & ENOCH, PC
349 N. Fourth Ave.
Phoenix Arizona 85003

Richard Gayer
526 W. Wilshire Dr.
Phoenix Arizona 85003
rgayer@cox.net
Consented to Service by Email

Albert H. Acken
One N. Central Ave Ste 1200
Phoenix Arizona 85004
aacken@rcalaw.com
ssweeney@rcalaw.com
slofland@rcalaw.com
jjw@krsaline.com
Consented to Service by Email

Timothy M. Hogan
ARIZONA CENTER FOR LAW IN THE PUBLIC
INTEREST
202 E. McDowell Rd. - 153
Phoenix Arizona 85004
thogan@aclpi.org
ken.wilson@westernresources.org
schlegelj@aol.com
ezuckerman@swenergy.org
bbaatz@aceee.org
briana@votesolar.org
Consented to Service by Email

Cynthia Zwick
ARIZONA COMMUNITY ACTION ASSOCIATION
2700 N. Third St. - 3040
Phoenix Arizona 85004

Jay I. Moyes
MOYES SELLERS & HENDRICKS, LTD
1850 N. Central Ave. - 1100
Phoenix Arizona 85004
JasonMoyes@law-msh.com
jimoyes@law-msh.com
jim@harcuvar.com
Consented to Service by Email

Thomas A Loquvam
PINNACLE WEST CAPITOL CORPORATION
400 N. 5Th St, MS 8695
Phoenix, Arizona 85004

Michael Patten
SNELL & WILMER, LLP
One Arizona Center
400 East Van Buren Street
Phoenix Arizona 85004
mpatten@swlaw.com
jhoward@swlaw.com
docket@swlaw.com
BCarroll@tep.com
Consented to Service by Email

Janice Alward
ARIZONA CORPORATION COMMISSION
1200 W. Washington
Phoenix Arizona 85007
JAlward@azcc.gov
TBroderick@azcc.gov
chanis@azcc.gov
wvancleve@azcc.gov
eabinah@azcc.gov
tford@azcc.gov
evanepps@azcc.gov
cfitzsimmons@azcc.gov
kchristine@azcc.gov
mscott@azcc.gov
Consented to Service by Email

Daniel Pozefsky
RUCO
1110 West Washington, Suite 220
Phoenix Arizona 85007

Greg Patterson
MUNGER CHADWICK
916 W. Adams Suite 3
Phoenix Arizona 85007

Anthony Wanger
IO DATA CENTERS, LLC
615 N. 48th St
Phoenix Arizona 85008

Giancarlo Estrada
KAMPER ESTRADA, LLP
3030 N. 3rd Street, Suite 770
Phoenix Arizona 85012

Meghan H. Grabel
OSBORN MALADON, PA
2929 N. Central Avenue Suite 2100
Phoenix Arizona 85012
mgrabel@omlaw.com
gyaquinto@arizonaic.org
Consented to Service by Email

Scott S. Wakefield
HIENTON & CURRY, PLLC
5045 N 12th Street, Suite 110
Phoenix Arizona 85014-3302
swakefield@hclawgroup.com
mlougee@hclawgroup.com
Stephen.chriss@wal-mart.com
Greg.tillman@walmart.com
chris.hendrix@wal-mart.com
Consented to Service by Email

Patrick J. Black
FENNEMORE CRAIG,P.C.
2394 E. Camelback Rd, Ste 600
Phoenix Arizona 85016
wcrocket@fclaw.com
pblack@fclaw.com
khiggins@energystrat.com
Consented to Service by Email

John William Moore, Jr.
1321 North 16th Street
Phoenix Arizona 85020

Tom Harris
ARIZONA SOLAR ENERGY INDUSTRIES ASSOCIATION
2122 W. Lone Cactus Dr. Suite 2
Phoenix Arizona 85027
Tom.Harris@AriSEIA.org
Consented to Service by Email

Craig A. Marks
CRAIG A. MARKS, PLC
10645 N. Tatum Blvd.
Suite 200-676
Phoenix Arizona 85028
Craig.Marks@azbar.org
Pat.Quinn47474@gmail.com
Consented to Service by Email

Court S. Rich
ROSE LAW GROUP, PC
7144 E. Stetson Drive, Suite 300
Scottsdale Arizona 85251

Greg Eisert
SUN CITY HOME OWNERS ASSOCIATION
10401 W. Coggins Drive
Sun City Arizona 85351
gregeisert@gmail.com
steven.puck@cox.net
Consented to Service by Email

Albert E. Gervenack
SUN CITY WEST PROPERTY OWNERS & RESIDENTS
ASSOCIAT
13815 Camino Del Sol
Sun City West Arizona 85375
al.gervenack@porascw.org
rob.robbins@porascw.org
Consented to Service by Email

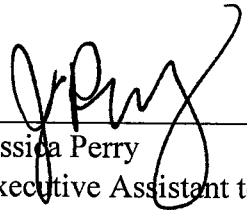
Patricia C. Ferre
P.O. Box 433
Payson Arizona 85547

Lawrence V. Robertson, Jr.
PO Box 1448
Tubac Arizona 85646
tubaclawyer@aol.com
Consented to Service by Email

Charles Wesselhoft
Pima County Attorney's Office
32 North Stone Avenue, Suite 2100
Tucson Arizona 85701
Charles.Wesselhoft@pcao.pima.gov
Consented to Service by Email

Warren Woodward
55 Ross Circle
Sedona Arizona 86336
w6345789@yahoo.com
Consented to Service by Email

By:



Jessica Perry
Executive Assistant to Commissioner Bob Burns